

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE**

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PETRA L. WATKINS	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No: 2:20-cv-02708
	)	
KROGER CO. (THE), and	)	
KROGER LIMITED PARTNERSHIP I,	)	<b>JURY DEMANDED</b>
And 3503 RP MEMPHIS	)	
WINCHESTER, L.L.C.,	)	
	)	
Defendants.	)	

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**NOTICE OF REMOVAL**

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Pursuant to 28 U.S.C. § 1446, Defendants, Kroger Limited Partnership I and The Kroger Company (hereinafter collectively “Kroger Defendants”), hereby file this Notice of Removal removing this case from the Circuit Court of Shelby County, Tennessee, Case No. CT-3439-20, where it is currently pending, to the United States District Court for the Western District of Tennessee. This cause is removable pursuant to 28 U.S.C. § 1332, in that Plaintiff’s claims invoke the Court’s diversity jurisdiction and the amount in controversy exceeds the statutorily required \$75,000.00. In support of removal, Kroger Defendants respectfully submit as follows:

**INTRODUCTION**

1. Defendant, Kroger Limited Partnership I is a limited partnership with its principal place of business located at 1014 Vine Street, Cincinnati, Ohio 45202. Kroger Limited Partnership I owns the property at issue and is the appropriate named defendant.

2. Defendant, The Kroger Company is a for-profit corporation with its principal place of business located at 1014 Vine Street, Cincinnati, Ohio 45202. The Kroger Company does not own the property at issue and is not the appropriately named defendant.

3. Defendant, 3503 RP Winchester, L.L.C., is a foreign limited liability company with its principal office being located as 2021 Spring Road, Suite 200, Oak Brook, Illinois and may be served with process through its designated registered agent, CT Corporation System, located at 300 Montvue Road, Knoxville, TN 37919-5546.

4. Plaintiff, Petra L. Watkins is a citizen and resident of Memphis, Shelby County, Tennessee.

5. Plaintiff's complaint seeks damages in excess of Seventy-Five Thousand Dollars (\$75,000).

6. The United States District Court for the Western District of Tennessee is the federal judicial district embracing the Circuit Court of Shelby County, Tennessee, where this suit was originally filed. Venue is therefore proper under 28 U.S.C. §§ 81(b)(1) and 1441(a).

7. Pursuant to 28 U.S.C. § 1332, this civil action is removable as it invokes the federal court's diversity jurisdiction. This Court therefore has subject matter jurisdiction over this civil action, and removal is proper.

#### **PROCEDURAL HISTORY**

8. Ms. Watkins ("Plaintiff") instituted this civil action in the Circuit Court of Shelby County, Tennessee, on August 21, 2020, arising out of injuries allegedly sustained in Shelby County, Tennessee, on or about September 4, 2019. A true and correct copy of all process and pleadings as served upon Kroger Defendants is attached hereto as Exhibit "A" and is incorporated herein by reference.

9. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be filed with the Shelby County Circuit Court, and written notice will be provided to Plaintiff along with a copy of this pleading.

**REMOVAL IS TIMELY FILED UNDER 28 U.S.C. § 1446(b)**

10. “The notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within thirty days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.” 28 U.S.C. § 1446.

11. Kroger Defendants were served with the summons in this action via Personal Service on August 31, 2020. As such, pursuant to 28 U.S.C. § 1446(b), this notice of removal is timely filed since it is filed on or before September 30, 2020.

**NON-WAIVER OF DEFENSES**

12. By removing this action from Shelby County Circuit Court, Kroger Defendants do not waive any defenses available to them.

13. By removing this action from Shelby County Circuit Court, Kroger Defendants do not admit any of the allegations in Plaintiff’s complaint.

**WHEREFORE, PREMISES CONSIDERED,** Kroger Defendants, by and through their counsel, desiring to remove this civil action to the United States District Court for the Western District of Tennessee, being the district and division for the county in which such civil action is pending, pray that the filing of this Notice of Removal, the giving of written notice thereof to Plaintiff, and the filing of a copy of this Notice of Removal with the clerk of the Circuit Court of Shelby County, Tennessee, shall effect the removal of said civil action to this Honorable Court. Defendant demands a jury to try the issues.

Respectfully submitted this 21st day of September, 2020.

**LEWIS, THOMASON, KING, KRIEG  
& WALDROP, P.C.**

By: s/Christopher L. Vescovo  
CHRISTOPHER L. VESCOVO (14516)  
LAURA L. DEAKINS (30131)  
*Attorneys for Defendants, Kroger Limited  
Partnership I and The Kroger Company*  
2900 One Commerce Square  
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(901) 525-8721  
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[ldeakins@lewisthomason.com](mailto:ldeakins@lewisthomason.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on the 21<sup>st</sup> day of September, 2020, a copy of the foregoing pleading has been delivered to all parties at interest in this cause via electronic mail, ECF, and/or by placing a copy of same in the United States mail, postage prepaid, in a properly addressed envelope, or by delivering same to each party or party's attorney as follows:

<input type="checkbox"/> Hand	WALTER L. BAILEY, JR (4868)
<input type="checkbox"/> Mail	JANIKA N. WHITE (#28355)
<input type="checkbox"/> Fax	22 North Front Street, Suite 1060
<input type="checkbox"/> Fed X	Memphis, TN 38103
<input type="checkbox"/> EFS	(901) 575-8702
<input checked="" type="checkbox"/> E-mail	<a href="mailto:wblegal@aol.com">wblegal@aol.com</a> <a href="mailto:janika@walterbaileylaw.com">janika@walterbaileylaw.com</a> <i>Attorneys for Plaintiff</i>
<input type="checkbox"/> Hand	3503 RP Memphis Winchester, LLC
<input checked="" type="checkbox"/> Mail	CT Corporation System
<input type="checkbox"/> Fax	300 Montvue Road
<input type="checkbox"/> Fed X	Knoxville, TN 37919-5546
<input type="checkbox"/> EFS	<i>Registered Agent for Co-Defendant</i>
<input type="checkbox"/> E-mail	

By: s/Christopher L. Vescovo

**IN THE CIRCUIT COURT OF TENNESSEE  
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS**

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PETRA L. WATKINS	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Docket No. CT-3439-20
	)	Div. II
KROGER CO. (THE), and	)	
KROGER LIMITED PARTNERSHIP I,	)	<b>JURY DEMANDED</b>
And 3503 RP MEMPHIS	)	
WINCHESTER, L.L.C.,	)	
	)	
Defendants.	)	

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**NOTICE OF FILING NOTICE OF REMOVAL**

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**PLEASE TAKE NOTICE** that Defendants, Kroger Limited Partnership I and The Kroger Company (hereinafter collectively “Kroger Defendants”), by and through their counsel, hereby give notice to the Circuit Court for Shelby County, Tennessee, and to Walter L. Bailey and Janika L. White, attorneys for Plaintiff, and the Registered Agent for 3503 RP Memphis Winchester, LLC, that the Kroger Defendants have filed a Notice of Removal with the United States District Court for the Western District of Tennessee, and that this case has been removed to that court. A copy of the Notice of Removal is attached hereto.

**LEWIS, THOMASON, KING, KRIEG  
& WALDROP, P.C.**

By: s/Christopher L. Vescovo  
CHRISTOPHER L. VESCOVO (14516)  
LAURA L. DEAKINS (30131)  
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Partnership I and The Kroger Company*  
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[ldeakins@lewisthomason.com](mailto:ldeakins@lewisthomason.com)

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